

**SUMMARY:** EPA is proposing to approve revisions to the California State Implementation Plan (SIP) which concerns the control of volatile organic compound (VOC) emissions from graphic arts and wood products coating operations.

The intended effect of proposing approval of these rules is to regulate emissions of VOCs in accordance with the requirements of the Clean Air Act, as amended in 1990 (CAA or the Act). In the Final Rules Section of this Federal Register, the EPA is approving the state's SIP revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial revision amendment and anticipates no adverse comments. A detailed rationale for this approval is set forth in the direct final rule. If no adverse comments are received in response to this proposed rule, no further activity is contemplated in relation to this rule. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. The EPA will not institute a second comment period on this document. Any parties interested in commenting on this action should do so at this time.

**DATES:** Comments on this proposed rule must be received in writing by November 30, 1995.

**ADDRESSES:** Written comments on this action should be addressed to: Daniel A. Meer, Rulemaking Section (A-5-3), Air and Toxics Division, U.S. Environmental Protection Agency, Region 9, 75 Hawthorne Street, San Francisco, CA 94105-3901.

Copies of the rule revisions and EPA's evaluation report of each rule are available for public inspection at EPA's Region 9 office during normal business hours. Copies of the submitted rule revisions are also available for inspection at the following locations:

Rulemaking Section (A-5-3), Air and Toxics Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 95105.

Environmental Protection Agency, Air Docket (6102), 401 "M" Street, SW., Washington, DC 20460.

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 2020 "L" Street, Sacramento, CA 95812-2815.

South Coast Air Quality Management District, 21865 E. Copley Drive, Diamond Bar, CA 91765-4812.

**FOR FURTHER INFORMATION CONTACT:** Daniel A. Meer, Chief Rulemaking Section (A-5-3), Air and Toxics

Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105, Telephone: (415) 744-1185.

**SUPPLEMENTARY INFORMATION:** This document concerns South Coast Air Quality Management District's Rules 1130, Graphic Arts and 1136, Wood Products Coating, submitted by the California Air Resources Board on October 13, 1995. For further information please see the information provided in the Direct Final action which is located in the Rules Section of this Federal Register.

Authority: 42 U.S.C. 7401-7671q.

Dated: October 19, 1995.

John Wise,

*Acting Regional Administrator.*

[FR Doc. 95-26885 Filed 10-30-95; 8:45 am]

BILLING CODE 6560-50-P

#### 40 CFR Part 52

[CA 79-3-7211; AD-FRL-5322-1]

#### Clean Air Act Approval and Promulgation of New Source Review Implementation Plan for Mojave Desert Air Quality Management District

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The EPA proposes to approve with a contingency, and disapprove in the alternative, Mojave Desert Air Quality Management District (MDAQMD) rules 1301, 1302, 1304, 1305, 1306, 1307, 1308, 1310, 1311, and 1312 (submitted rules) as a revision to the California State Implementation Plan (SIP). The State of California has submitted these rules for the purpose of meeting the new source review (NSR) requirements of the Clean Air Act, as amended in 1990 (CAA or the Act) for areas that have not attained the national ambient air quality standards (NAAQS). The submitted rules contain a number of deficiencies that prevent EPA from approving them as revisions to the SIP. However, MDAQMD has agreed to correct these deficiencies, and has sent draft rules (Initial Draft 3, 10/11/95—hereafter: "proposed revisions") to EPA which contain acceptable language. This proposed approval is therefore contingent upon MDAQMD adopting and submitting to EPA revised rules which correct the deficiencies identified in this document before EPA promulgates a final rulemaking on the submitted rules. Should MDAQMD fail to adopt and submit its proposed revisions, then this document will serve as a proposed disapproval of the

submitted rules. If the District adopts and submits rules which differ substantially from those contained in its proposed revisions, then EPA will publish an additional notice of proposed rulemaking for public review and comment.

**DATES:** Comments on this proposed action must be received in writing by November 30, 1995.

**ADDRESSES:** To submit comments or receive additional information, please contact: Steve Ringer, Environmental Engineer, Air & Toxics Division (A-5-1), EPA Region 9, 75 Hawthorne Street, San Francisco, CA 94105. Copies of MDAQMD's submittal and other information are available for inspection during normal business hours at the following locations: (1) EPA Region 9, 75 Hawthorne Street, San Francisco, CA; (2) Mojave Desert AQMD, 15428 Civic Drive, Suite 200, Victorville, CA 92932; (3) Air Resources Board, 2020 "L" Street, Sacramento, CA 95814.

**FOR FURTHER INFORMATION CONTACT:** Steve Ringer at (415) 744-1260.

**SUPPLEMENTARY INFORMATION:** The air quality planning requirements for nonattainment NSR are set out in Part D of Title I of the Act. EPA has issued a "General Preamble" describing EPA's preliminary views on how EPA intends to review SIPs and SIP revisions submitted under part D, including those State submittals containing nonattainment NSR SIP requirements (see 57 FR 13498 (April 16, 1992) and 57 FR 18070 (April 28, 1992)). Because EPA is describing its interpretations here only in broad terms, the reader should refer to the General Preamble for a more detailed discussion. EPA is currently developing proposed regulations to implement the changes under the 1990 Amendments in the NSR provisions in Parts C and D of Title I of the Act. EPA expects to propose these regulations sometime during 1995 or 1996. Upon promulgation of these regulations, EPA will review those NSR SIP submittals on which it has taken final action to determine whether additional SIP revisions are necessary.

#### Procedural Background

The Act requires States to observe certain procedural requirements in developing implementation plans and plan revisions for submission to EPA. Section 110(a)(2) and section 110(l) of the Act provide that each implementation plan or revision to an implementation plan submitted by a State must be adopted after reasonable notice and public hearing. Section 172(c)(7) of the Act provides that plan provisions for nonattainment areas shall

meet the applicable provisions of Section 110(a)(2).

The MDAQMD Governing Board held a public hearing on September 22, 1993 to entertain public comment on the NSR implementation plan. The plan was adopted by the State and submitted to EPA on March 29, 1994 as a proposed revision to the SIP.

The SIP revision was not reviewed by EPA within six months to determine completeness, and was therefore deemed complete by default. The submittal has since been reviewed and found to be complete but lacking certain requirements that would make it fully approvable. However, as noted above, MDAQMD has agreed to make the required changes and has submitted draft versions of its rules which address the deficiencies described below. Therefore, contingent on the submittal of a fully approvable SIP in the form of approved rules consistent with the revised rules, EPA proposes to approve the MDAQMD's nonattainment NSR SIP submittal. If the District fails to correct the deficiencies in the submitted rules, then EPA's final action will be a disapproval. If the District adopts and submits rules which differ substantially from those contained in its proposed revisions, then EPA will publish an additional notice of proposed rulemaking for public review and comment.

#### Summary of Rule Contents

MDAQMD submitted to EPA for adoption into the applicable NSR SIP Rules 1301, 1302, 1304, 1305, 1306, 1307, 1308, 1310, 1311, and 1312. These submitted rules constitute MDAQMD's new source permitting regulations. Rule 1301 outlines the general requirements for preconstruction review of permit applications. Rule 1302 defines terms relating to new sources and modifications to existing sources of air pollution, and their regulation. Rule 1304 allows an exemption from NSR for a change of ownership. Rule 1305 describes the procedures for submittal and review of permit modifications. Rule 1306 outlines calculation methods for emissions increases and decreases, and for offset requirements. Rule 1307 contains a description of which new and modified sources require offsets. Rule 1308 outlines which sources are eligible to create offsets. Rule 1310 describes District requirements for completeness determinations, final action and public notice on a permit submittal. Rule 1311 outlines the requirements for electrical energy generating facilities. Rule 1312 contains an alternative siting analysis requirement for major new sources and

modifications. The submitted rules are intended to replace the existing rules 1301 through 1313, which were adopted into the San Bernardino SIP by EPA on June 9, 1982. MDAQMD has adopted these new regulations in part to meet the 1990 CAA Amendments and the November 15, 1992 deadline for submittal. A summary of the changes between the current SIP and the submitted rules is contained in the Technical Support Document (TSD) for this action.

MDAQMD is currently designated as attainment or unclassifiable for CO, NO<sub>2</sub>, Pb, and SO<sub>2</sub>, and moderate nonattainment for PM<sub>10</sub>. In addition, part of the MDAQMD is designated severe nonattainment for ozone [40 CFR 81.305]. The CAA requirements for nonattainment NSR permitting are found at sections 172 and 173. With certain exceptions, described below, MDAQMD's submittal satisfies these requirements. For a detailed description of how the submitted rules and MDAQMD's proposed revisions meet the CAA requirements, refer to EPA's TSD.

#### Rule Deficiencies Requiring Correction

Below is a list of the deficiencies which must be corrected for EPA to approve MDAQMD's NSR rules into the SIP.

##### *Rule 1302*

#### Actual Emissions

The definition of "Actual Emissions" in the submitted rules should require that emissions calculations reflect actual production rates, the actual amount of fuel burned, actual amounts of material processed, and the actual hours of operation over the two years prior to such a determination. Emission factors should be established by source testing or obtained from a reliable source of emission factor data such as EPA's AP-42.

#### Major Modification

The submitted rules do not contain this definition. Although the submitted definition of "Modification" contains much of the language from the definition of a major modification in 40 CFR 51.165(a)(1)(v), the District must define a "Major Modification" as any modification that results in a significant net emissions increase.

#### Modification

The definition of "Modification" in the submitted rules differs from the published definition in 40 CFR 52.21(2)(i). The CFR defines a modification as a "physical change in or change in the method of operation." The

submitted rules, however, define this as "any equipment or process which undergoes a physical revision." The rules should be changed to clarify that the term "Modification" refers to the change, rather than to the equipment itself.

#### Volatile Organic Compound

The definition of "Reactive Organic Compound" in the submitted rules contains a list of substances exempt from regulation as ROC's which is inconsistent with the exemption list in 40 CFR 51.100(s). This discrepancy should be corrected to avoid granting ROC emission reduction credits, as well as requiring ROC offsets, for non-ozone-precursor emissions. The definition in 40 CFR 51.100(s) should be adopted verbatim into this section.

#### Additional Definitions:

In addition to the changes indicated above, it is necessary to add the following terms to this section: Begin Actual Construction, Commence Construction, Construction, Enforceable (or Federally Enforceable), Net Emissions Increase, Secondary Emissions, and Significant. These definitions should follow the language found at 40 CFR 51.165.

##### *Rule 1306*

#### Calculating Emissions Changes

This section uses a source's pre-modification potential to emit (PTE), rather than its pre-modification actual emissions, as the baseline for calculating the offset requirement for major modifications in nonattainment areas. This method is not acceptable unless the source has already offset its entire pre-modification PTE. The District must amend the rule to calculate the offset requirement in this case as the source's new PTE minus the source's pre-modification actual emissions.

##### *Rule 1307*

#### Determination of Offset Requirements (Non-major Facility)

Section (B)(2)(a) overlooks the case in which a non-major facility undergoes a modification which is in itself major. In this case, the entire modification must be offset, and not, as the rule states, only the portion of the facility's PTE which exceeds the major source threshold.

#### Obtaining Offsets

The submitted rules contain no provision, pursuant to section 173 of the Act, which requires that offsets be federally enforceable prior to the issuance of an authority to construct

permit, and in effect by the time operation commences. Such provisions must be added.

#### Rule 1308

##### Mobile Source Emission Reductions

EPA has not developed mobile source emission reduction crediting guidance. The rules should therefore include a case by case approval by EPA.

##### Mobile Source Emission Reductions

Section (A)(3)(b) allows emissions reduction credits to be generated by the "substitution and use of high occupancy vehicles for low occupancy vehicles." Due to the extreme difficulty in quantifying these types of emissions reductions, and in making them permanently enforceable, EPA cannot approve this as a means of generating offsets. This provision should be removed from the District's rules.

##### Emission Reduction Credits From Vehicle Scrappage

In order for EPA to determine if the offsets to be generated from a vehicle scrappage program will be federally approvable, the details of the program must be submitted with this rule. Section (A)(3)(c), which states that these are a potential source of offsets, should either include these details, or reference another section or rule which contains the details of the program.

##### Interpollutant Offsets

The use of interpollutant trading to satisfy nonattainment offset requirements is generally allowable only under very specific conditions. On April 13, 1995, the Director of EPA Region 9's Air and Toxics Division sent a letter to MDAQMD outlining an acceptable method for the use of interpollutant trading. MDAQMD should either incorporate this method into its NSR rules, or require case-by-case advance approval by EPA.

##### Source Eligibility

Energy conservation projects could be an acceptable source of offsets, but a definition should be included to clarify what is meant by these. Section (A)(4) should also include a statement that these projects are subject to the same standards as other sources of offsets (i.e., the reductions must be real, enforceable, quantifiable, surplus, and permanent).

##### Intra-basin and Inter-district Offsets

Section (D) should include the CAA section 173(c)(1) requirements that sources locating in a nonattainment area may only obtain offsets from other nonattainment areas which (A) have

equal or higher nonattainment classification, and (B) contribute to a violation of the NAAQS in the nonattainment area in which the source is located.

##### Additional Requirements

**Surplus Requirement:** The submitted rules contain insufficient provisions to ensure that all emission reduction credits (ERC's) used to satisfy the nonattainment offset requirements will be surplus. These provisions must be added to MDAQMD's NSR rules.

**Prior Shutdowns:** The submitted rules do not prohibit the use of "prior shutdown" credits as required in 40 CFR 51.165(a)(1)(xxv). This provision applies either when the District attainment plan has been disapproved, or when this plan is not yet due, but a due date during the creation of this plan is missed. In these cases, sources which seek ERC's due to a shutdown must do so at the time operation of the source ceases. This provision must be added to the District's rules.

**Class I Area Visibility Protection:** The submitted rules lack the Class I Area visibility protection provisions of 40 CFR 51.307(b)(2) for any new major source or major modification, proposing to locate in a non-attainment area, that may have an impact on visibility in any mandatory Class I Federal Area. This requirement must be added to the District's rules.

**Applicability:** The submitted rules contain no provisions which require NSR for a source or modification which becomes major due to a relaxation in a federally-enforceable limit. As described in 40 CFR 51.165(a)(5)(ii), such sources and modifications are subject to NSR "as though construction had not yet commenced." This requirement must be added to the District's rules.

##### Proposed Action

EPA is proposing to approve with contingencies, and to disapprove in the alternative, the SIP revisions submitted by MDAQMD on March 29, 1994. Full approval as a final action on this SIP revision is contingent upon MDAQMD making the required changes to the submitted rules as listed above.

If the specified changes to the submitted rules are not made before EPA's final action on this SIP revision, then EPA's final action will be a disapproval. If finalized, this disapproval would constitute a disapproval under section 179(a)(2) of the Act (see 57 FR 13566-13567). As provided under section 179(a), MDAQMD would have up to 18 months after a final SIP disapproval to correct the deficiencies that are the subject of

the disapproval before EPA is required to impose sanctions. If the MDAQMD does not correct its SIP deficiencies within 18 months, then section 179(a)(4) requires the immediate application of sanctions. According to section 179(b), sanctions can take the form of a loss of highway funds or a two to one emissions offset ratio. Once the Administrator applies one of the section 179(b) sanctions, the State will then have an additional six months to correct any deficiencies. Section 179(a)(4) requires that both highway and offsets sanctions must be applied if any deficiencies are still not corrected after the additional six month period.

EPA is requesting comments on all aspects of this proposed rulemaking action. Comments received by the date indicated above will be considered in EPA's final action.

##### Administrative Review

Nothing in this action should be construed as permitting, allowing, or establishing a precedent for any future request for a revision to any SIP. Each request for revision to a SIP shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

Under the Regulatory Flexibility Act, 5 U.S.C. 600 et seq., EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

SIP approvals under section 110 and subchapter I, part D of the Act do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP-approval does not impose any new requirements, I certify that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-State relationship under the Act, preparation of a regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of State action. The Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co. v. U.S. E.P.A.*, 427 U.S. 246, 256-66 (S.Ct 1976); 42 U.S.C. 7410(a)(2). The Office of Management and Budget has exempted this rule from the requirements of section 6 of Executive Order 12866.

### Unfunded Mandates

Under Section 202 of the Unfunded Mandates Reform Act of 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a federal mandate that may result in estimated costs to state, local, or tribal governments in the aggregate; or to the private sector, of \$100 million or more. EPA has determined that the approval proposed in this document does not include such a federal mandate, as this proposed federal action would approve pre-existing requirements under state or local law, and would impose no new federal requirements. Accordingly, no additional costs to state, local, or tribal governments, or to the private sector, will result from this action.

### List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Intergovernmental relations, nitrogen dioxide, Particulate matter, Reporting and recordkeeping requirements, Sulfur dioxide, Volatile organic compounds.

Authority: 42 U.S.C. 7401-7671q.

Dated: October 17, 1995.

Felicia Marcus,

*Regional Administrator.*

[FR Doc. 95-26952 Filed 10-31-95; 8:45 am]

BILLING CODE 6560-50-P

### 40 CFR Parts 52 and 81

[MD44-1-3001b, MD44-2-3002b; FRL-5315-5]

### Approval and Promulgation of Implementation Plans; Designation of Areas for Air Quality Planning Purposes; Redesignation of the Baltimore Carbon Monoxide Area to Attainment and Approval of the Area's Maintenance Plan and Emission Inventory; State of Maryland

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** EPA proposes to approve the State Implementation Plan (SIP) revision submitted by the State of Maryland for the purpose of approving a maintenance plan and a request to redesignate the Baltimore carbon monoxide nonattainment area, from nonattainment to attainment for CO. In the Final Rules section of this Federal Register, EPA is approving the State's SIP revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial SIP revision and anticipates no adverse comments. A detailed rationale for the

approval is set forth in the direct final rule. If no adverse comments are received in response to this proposed rule, no further activity is contemplated in relation to this rule. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time.

**DATES:** Comments must be received in writing by November 30, 1995.

**ADDRESSES:** Written comments on this action should be addressed to Marcia L. Spink, Associate Director, Air Programs, Mailcode 3AT00, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air, Radiation, and Toxics Division, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107; Maryland Department of the Environment, 2500 Broening Highway, Baltimore, Maryland 21224.

**FOR FURTHER INFORMATION CONTACT:** Catherine L. Magliocchetti, (215) 597-6863.

**SUPPLEMENTARY INFORMATION:** See the information provided in the Direct Final action which is located in the Rules and Regulations Section of this Federal Register.

Authority: 42 U.S.C. 7401-7671q.

Dated: September 29, 1995.

W. Michael McCabe,

*Regional Administrator, Region III.*

[FR Doc. 95-26960 Filed 10-30-95; 8:45 am]

BILLING CODE 6560-50-P

### FEDERAL COMMUNICATIONS COMMISSION

#### 47 CFR Part 73

[MM Docket No. 95-153; RM-8702]

### Radio Broadcasting Services; Tillamook, OR

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule.

**SUMMARY:** The Commission requests comments on a petition filed by Brian Lord requesting the allotment of Channel 231A to Tillamook, OR, as the community's second local FM service. Channel 231A can be allotted to

Tillamook in compliance with the Commission's minimum distance separation requirements with a site restriction of 5.8 kilometers (3.6 miles) west, at coordinates 45-27-27 North Latitude; 123-55-00 West Longitude, to avoid a short-spacing to Station KPDQ-FM, Channel 229C, Portland, Oregon. Canadian concurrence is required since Tillamook is located within 320 kilometers (200 miles) of the U.S.-Canadian border.

**DATES:** Comments must be filed on or before December 18, 1995, and reply comments on or before January 2, 1996.

**ADDRESSES:** Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Brian Lord, 3824 SW Myrtle Street, Seattle, WA 98126-3210 (Petitioner).

**FOR FURTHER INFORMATION CONTACT:** Leslie K. Shapiro, Mass Media Bureau, (202) 418-2180.

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's *Notice of Proposed Rule Making*, MM Docket No. 95-153, adopted September 26, 1995, and released September 29, 1995. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, Inc., (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

*Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.*

[FR Doc. 95-26978 Filed 10-30-95; 8:45 am]

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